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368

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/883,636 06/26/97 GONG

L 3070-004

EXAMINER

WM31/0924

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WASHINGTON DC 20005-3096

MEISLAHN, D	
ART UNIT	PAPER NUMBER

2132
DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/883,636

Applicant(s)

GONG, LI

Examiner

Douglas J Meislahn

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 13-20, 22-24, 26-32, 34, and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13-20, 22-24, 26-32, 34, and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 14 May 2001 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment filed 14 May 2001 that amended the specification and claims 2, 20, 22, 24, 26, 28, 30, 32, and 34, proposed corrections to figures 1, 5, and 6, and cancelled claims 21, 25, and 33.

Response to Arguments

2. The rejections based upon Elgamal are being dropped, as is the 112. Applicant offered to include the phrase that had given rise to the 112 in the specification. This would be much appreciated because it would clarify the application. Please note that Elgamal still supports the examiner's taking of official notice in paragraph 11.

3. Applicant's arguments filed 14 May 2001 have been fully considered but they are not persuasive.

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the specifics of the data stream) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1, 5, 13, 17, 20, 24, 28, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Helwig et al. (5793749).

Helwig et al., in the paragraph spanning columns five and six, teach encrypting a data stream and then formatting it to be compatible with a transmission protocol. From this description, it is apparent that the encryption is not dependent upon the communication protocol or any layers, thereby anticipating steps d-f of claim one. The first three steps of claim one are anticipated because the system uses data streams.

7. Claims 1, 5, 13, 17, 20, 24, 28, and 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneier (Applied Cryptography). See figure 9.6.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 4, 7, 8, 15, 16, 18, 19, 22, 23, 26, 27, 30, 31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier or Helwig et al.

Schneier and Helwig et al. present systems in which encryption of a data stream is independent of the communication protocol and layer. They do not say that the communication channels or data streams are Java-based. Official notice is taken that it is old and well-known that Java is intended for networked/distributed environments and

enables the construction of virus-free, tamper-free systems. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to base the systems of Schneier or Helwig et al., all of which are networked or distributed environments, on Java, as is known in the art. This would enable the implementation of a virus-free, tamper-free system.

10. Claims 2, 6, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helwig et al. or Schneier.

Helwig et al. and Schneier present a system in which encryption of a data stream is independent of the communication protocol and layer. They do not say that there is additional encryption. Official notice is taken that it is old and well-known to increase security by encrypting already-encrypted data, and encryption is sometimes performed in communication protocols. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to encrypt the already-encrypted data of Helwig et al. at a layer of the communication protocol, thereby increasing security. The official notice is supported, among other places, in lines 9-18 of column 15 of Elgamal.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached between 9 AM and 6 PM, from Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann can be reached on (703) 308-7791. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0040 for regular communications and (703) 308-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


DJM

August 28, 2001

Douglas J. Meislahn
Examiner
Art Unit 2132


GAIL HAYES

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100